

Schedule WV/SRDTC-1

WEST VIRGINIA STRATEGIC RESEARCH AND DEVELOPMENT TAX CREDIT INSTRUCTIONS

The Strategic Research and Development Tax credit was enacted to provide incentives to conduct qualified research and development activities within West Virginia.

ELIGIBLE TAXPAYERS

Eligibility for the Strategic Research and Development Tax Credit is limited to the following taxpayers:

1. Taxpayers conducting qualified research and development activities within West Virginia who submitted a timely filed application for credit [WV/SRDTC-A] to the State Tax Commissioner
2. Taxpayers with qualified contract research and development expenditures allocated to West Virginia who submitted a timely-filed application for credit [WV/SRDTC-A] to the State Tax Commissioner

WHAT IS RESEARCH AND DEVELOPMENT?

Research and development means systematic scientific, engineering or technological study and investigation in a field of knowledge in the physical, computer or software sciences, often involving the formulation of hypotheses and experimentation, for the purpose of revealing new facts, theories or principles, or increasing scientific knowledge, which may reveal the basis for new or enhanced products, equipment or manufacturing processes.

Research and development includes, but is not limited to, design, refinement and testing of prototypes of new or improved products, or equipment, or design, refinement and testing of manufacturing processes before commercial sales relating thereto have begun. The term, commercial sales, includes, but is not limited to, sales of prototypes or sales for market testing.

Research and development does **not** include: market research; sales research; efficiency surveys; consumer surveys; product market testing; product testing by product consumers or through consumer surveys for evaluation of consumer product performance or consumer product usability; the ordinary testing or inspection of materials or products for quality control; management studies; advertising; promotions; the acquisition of another's patent, model, production or process or investigation or evaluation of the value or investment potential related thereto; research in connection with literary, historical or similar activities; research in social sciences, economics, humanities or psychology and other non-technical activities; and the providing of sales services or any other service, whether technical service or non-technical service.

AMOUNT OF CREDIT

The allowable tax credit is the greatest of three percent [3.0%] of the annual combined qualified research and development expenditure within West Virginia, or ten percent [10.0%] of the excess of the annual combined qualified research and development expenditure within West Virginia over the base amount. The base amount equals the average annual combined research and development expenditure within West Virginia during the three years preceding the current year.

For a taxpayer that has filed a West Virginia Corporate Net Income tax return for 1 or 2 prior taxable years (but fewer than 3 taxable years), determined on the basis of all filings by the Taxpayer's controlled group, the base amount is the average annual combined qualified research and development expenditure for the number of immediately preceding taxable years, other than short taxable years, during which the taxpayer filed a West Virginia Corporate Net Income tax return.

For a Taxpayer that has not filed a West Virginia Corporate Net Income tax return for at least 1 taxable year, determined on the basis of all filings by the taxpayer's controlled group, the base amount is zero.

QUALIFIED RESEARCH AND DEVELOPMENT PROPERTY AND EXPENSES

Qualified research and development property means depreciable property purchased for the conduct of qualified research and development. Qualified research and development expenses means the sum of in-house and contract research and development expenses for qualified research and development allocated to West Virginia, which are paid or incurred by the eligible Taxpayer during the taxable year. These expenses do not include any expense that must be capitalized and depreciated for federal income tax purposes, or any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent or quality of any deposit of coal, limestone or other natural resource, including oil and natural gas. In addition, these expenses do not include any wage or salary expense for wages or salary reported on form W-2 for federal income tax purposes on which the West Virginia personal income tax is imposed, and against which tax the Strategic Research and Development Tax Credit is applied.

Property purchased for an eligible Strategic Research and Development Tax Credit is defined as buildings and improvements thereto, and tangible personal property, constructed or purchased for use as a component part of a qualified research and development project located within

West Virginia on or after January 1, 2003.

Tangible personal property is included as qualified property only if depreciation, or amortization in lieu of depreciation, is allowable in determining the income tax of the purchaser. The leasing of property for a term of ten years or longer, if used as a component part of an eligible research and development project shall also be considered qualified property for purposes of the tax credit.

INELIGIBLE PROPERTY

Property purchased for research and development shall not include the following:

1. Land and improvements thereto;
2. Repair costs, including materials used in making the repair;
3. Motor vehicles licensed by the Department of Motor Vehicles;
4. Airplanes;
5. Property located or primarily used outside this State;
6. Property acquired incident to the purchase of the stock or assets of an industrial taxpayer which was or had been used by the seller in its industrial business in this State, or which was previously designated property purchased for either the business investment and jobs expansion credit or the economic opportunity tax credit, property purchased for either the industrial expansion and revitalization credit or the manufacturing investment tax credit, property purchased for the research and development project credit, or property purchased for the coal-loading facility credit.
7. Property purchased or placed into service prior to January 1, 2003.

NET COST

Net cost is the net monetary consideration provided for acquisition of title and/or ownership to the subject property. Net cost shall not include the value of any property given in trade or exchange for property purchased for an eligible research and development project. If property is damaged or destroyed by fire, flood, storm or other casualty or is stolen, the cost of replacement shall not include any insurance proceeds received in compensation for the loss.

In the case of leased property, net cost is the rent reserved for the primary term of the lease, not to exceed 20 years.

In the case of self-constructed property, the cost thereof is the amount of property charged to the capital account for purposes of depreciation.

PROPERTY PURCHASED FOR MULTIPLE BUSINESS USE

If property is purchased for multiple business use, including use as a component part of an eligible research and

development project together with some other business or occupation not qualifying (for example, retailing), the cost of the property must be apportioned. The apportionment of multiple-use properties must be thoroughly supported and explained by separate documents submitted with the application.

ELIGIBLE INVESTMENT

The eligible investment in a research and development project is the sum of the applicable percentage of the cost of depreciable property purchased for use in an eligible research and development project, plus the amount of qualified research expenses deducted by the taxpayer for federal income tax purposes.

Property Investment

To determine the amount of property investment eligible for the Strategic Research and Development Tax Credit, the net cost of each property purchased is multiplied by the applicable percentage shown below according to the useful life of the property. In order to be eligible for the credit, the property must have been placed into use in West Virginia during the taxable year.

If useful life is:	The applicable percentage is:
Less than 4 years	33 $\frac{1}{3}$ %
4 years or more but less than 6 years	66 $\frac{2}{3}$ %
6 years or more	100 %

EXAMPLE

If a taxpayer purchases \$30,000 of machinery with a useful life of four years for use in an eligible research and development project, the eligible investment is equal to \$20,000. The eligible investment is calculated by multiplying the cost of machinery, \$30,000 times the applicable percentage according to the useful life, 66 $\frac{2}{3}$ %, to arrive at \$20,000.

QUALIFIED RESEARCH EXPENSES

Qualified research expenses means the sum of in-house and contract research expenses paid or incurred for qualified research allocated to West Virginia by an eligible taxpayer. Qualified research expenses do not include any expense that must be capitalized and depreciated for federal income tax purposes, or any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent or quality of any deposit of coal, limestone, or other natural resource, including oil or gas.

In-House Research Expenses

In-house research expenses include:

- A. Wages paid or incurred to an employee for qualified

- services performed in this State by such employee;
- B. Amounts paid or incurred for supplies used in the conduct of qualified research in this State; and
- C. Amounts paid or incurred to another person for the right to use personal property in the conduct of qualified research in this State.

Qualified services include services consisting of:

- A. Engaging in qualified research in this State; or
- B. Engaging in the direct supervision or direct support of research activities in this State, which constitute qualified research.

If substantially all of the services performed by an individual for the taxpayer during the taxable year consist of services meeting the requirement of subparagraph (A) or (B), the term qualified services means all services performed by such individual for the taxable year.

Supplies means any tangible property other than:

- A. Land or improvement to land, and
- B. Property of a character subject to depreciation for federal income tax purposes.

Wages has the meaning given to such term by Section 3401 (a) [26 USCS §3401] of the Internal Revenue Code of 1986, as amended. In the case of self-employed individuals and owner-employees (within the meaning of Section 401 (c) (1) of the Internal Revenue Code), the term “wages” includes the earned income (as defined in Section 401 (c) (2) of the Internal Revenue Code) of such employee. The term “wages” shall not include any amount taken into account in determining the federal targeted jobs credit under Section 51(a) of the Internal Revenue Code.

Contract Research Expenses

Contract Research expenses means:

- A. In general, 65% of any amount paid or incurred by the taxpayer to any person (other than an employee of the taxpayer) for qualified research.
- B. If any contract research expenses paid or incurred during any taxable year are attributable to qualified research to be conducted after the close of the taxable year, such amount shall be treated as paid or incurred during the taxable year during which the qualified research is conducted.

Qualified Research means research and development conducted for purposes relating to the technical, economic financial, engineering or marketing aspects of expanding markets for and increasing sales of this State’s natural resource products or manufactured products, or both, but it shall not include:

- A. Research or development conducted outside this State;

- B. Research or development not directly related to increasing the uses for and sales of this State’s natural resources products and industrial products.
- C. Research in the social sciences or humanities; or
- D. Research and development to the extent funded by any grant, contract or otherwise by another person (or any governmental entity).

RESEARCH BY COLLEGES, UNIVERSITIES AND CERTAIN RESEARCH ORGANIZATIONS

In general, 65% of the amount paid or incurred by a corporation for research to any nonprofit education organization which is an institution of higher education (as defined in Section 3304 (f) of the Internal Revenue Code of 1986, as amended), an institution of higher education subject to the jurisdiction of the West Virginia Board of Trustees or Board of Directors, or any other nonprofit organization exempt from federal income taxes which is organized and operated primarily to conduct scientific research and is not a private foundation for federal income tax purposes, shall be treated as contract research expense. The preceding sentence shall apply only if the amount is paid or incurred pursuant to written research agreement between the corporation and the qualified organization.

CREDIT RECAPTURE

Credit attributable to property that ceases to be used in this State prior to the end of its categorized useful life must be recalculated for all tax years according to actual useful life. For example, Company R invests \$8 million in a research computer with a designated useful life of over 6 years in 2003. The credit for Company R is calculated to equal \$800,000. However, Company R sells this computer in 2005, and therefore the computer’s actual useful life in West Virginia is reduced to only 2 years. The corresponding credit is reduced according to the above formula from \$800,000 to \$266,667. A reconciliation statement for the 2003 through 2005 period reflecting an over utilization of credit must then be submitted with payment of any additional tax, interest and penalties.

COMPUTATION OF STRATEGIC RESEARCH AND DEVELOPMENT TAX CREDIT

Computation of Eligible Investment

- Column 1** Enter the net costs of the property and amount of in-house or contract research expenses in Column 1 on the appropriate line determined by either the life of the property or the type of research expenses.
- Columns 2 & 3** Multiply the net costs in Column (1) by the applicable percentages in Column (2). Enter the results in Column (3).
- Line 6** Add the figures in Column (3) and enter on Line 6. This is the taxpayer’s eligible investment.

If you conducted research and development in West Virginia during prior years, go to Line 7a, otherwise skip to Line 9.

- Line 7** **a.** Repeat the calculation at Column 1, Column 2 and 3 for the year immediately preceding the current year and enter the result here.
- b.** Repeat the calculations of Column 1, Column 2 and 3 for the second year immediately preceding the current year and enter the result here.
- c.** Repeat the calculation of Column 1, Column 2 and 3 for the third year immediately preceding the current year and enter the result here.
- Line 8** Add the amounts on Line 7a, Line 7b and Line 7c
- Line 9** Divide the amount on line 8 by the number of entries on line 7 [i.e., 3, 2 or 1] and enter here. If you skipped Lines 7 and 8, enter \$0 on this line.
- Line 10** Subtract the amount on Line 9 from the amount on Line 6 and enter here. If the calculated amount is less than \$0, enter \$0 on this line.
- Line 11** Multiply the amount on Line 10 by 10% [0.10] and enter the result here.
- Line 12** Multiply the amount on Line 6 by 3% [0.03] and enter the result here.
- Line 13** Research and Development companies enter the greater of the value on Line 11 or the value on Line 12 here. Owners allocated Strategic Research and Development Tax Credit enter the current year credit allocated from a Research and Development company. This amount represents the total new tax credit for this year.
- Line 14** Enter the value of unused Strategic Research and Development Tax Credit carried forward from prior years. [Note that credit carryovers cannot exist until TY2004].
- Line 15** Add the amount on Line 13 and Line 14, and enter the result here. This amount is the total available credit available for use this year.
- Line 16** Enter your total amount of pre-credit

Corporation Net Income Tax liability.

- Line 17** Enter the lesser of \$2 million, the amount on Line 16, the amount on Line 15, or the amount of available credit you wish to use to offset Corporation Net Income Tax.
- Line 18** Enter your total amount of Personal Income Tax liability on the conduit income directly derived from the qualified Strategic Research and Development pass through entity [e.g., if \$500,000 out of \$2,000,000 in total adjusted gross income is attributable to income from the qualified business entity, then 25% ($\$500,000/\$2,000,000$) of total personal income tax liability should be entered here].
- Line 19** Enter the lesser of \$2,000,000, the amount on Line 18, the amount on Line 15 less any credit claimed on Line 17 or the amount of available credit you wish to use to offset Personal Income Tax here.
- Line 20** Sum the amounts of credit claimed on Line 17 and Line 19, and enter the result here. The sum cannot exceed \$2 million.
- Line 21** Subtract the amount on Line 20 from the amount on Line 15, and enter the result here. This amount can never be less than \$0. Unused credit may be carried over for a period not to exceed ten years.
- Line 22** If any Strategic Research and Development Tax Credit is allocated to a parent company (or parent companies), enter the owner name, owner FEIN, owner share of ownership and the Strategic Research and Development Tax Credit allocated. Sum all allocated credit amounts and enter the amount on the Total Allocated line.
- Line 23** Subtract the amount on the Total Allocated line (from the Allocated to Owners section) from the amount on Line 21.
- Line 24** Small Qualified Research and Development Companies may be eligible for a refundable credit. If the Research and Development company satisfies the indicated criteria, and wishes to claim the refundable credit, enter the minimum of \$100,000 and the amount on Line 23.
- Line 25** Recap of the use of Strategic Research and Development Tax Credits over the past eleven years and the total amount to be carried over to next year.